THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12955 OF 2006

ORDER:

The petitioner is a resident of Akenepally village of Bellampally Mandal and is working as attender in Bellampally Municipality. He allegedly purchased land admeasuring Acs.6.00 in Survey No.183 from Palakala Chandraiah under unregistered document, dated 12.04.1980. Likewise he purchased another extent of Acs.2.00 in the same survey number from Talla Venkati under a document, dated 04.05.1980, and yet another extent of Acs.4.00 from one Venkata Mutyam Rao under a document, dated 12.04.1975 (in total, Acs.12.00 in survey No.183). As the transactions were under unregistered documents, he applied to the Mandal Revenue Officer, Bellampally (MRO), the third respondent herein, under Section 5A of A.P.Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity) for validating those sale deeds. By separate proceedings, dated 30.03.1997 and 11.11.1997, the MRO validated the sales and issued certificate in Form 13-B. It is the case of the petitioner that the vendors, who sold the land to him, are absolute owners and pattadars and by reason of the certificate in Form 13-B issued by the MRO, the petitioner became pattadar and owner and possessor of the land. The respondents 4 to 6 herein filed appeals under Section 5-B of the Act before the Revenue Divisional Officer (RDO), the second respondent herein, who by order, dated 18.10.2000 set aside the proceedings of the MRO as illegal and remanded for *do novo* enquiry. This order was challenged by the petitioner by way of revision under Section 9 of the Act before the Joint Collector, first respondent herein. By impugned order in case No.D4/ROR/4/2000, dated 06.02.2006, first respondent dismissed the revision. Aggrieved by the same, the present writ petition is filed.

The fourth respondent is brother of the petitioner and respondents 5 and 6 are his cousins. This relationship is not denied before this Court. The case of the respondents 4 to 6 before the RDO and Joint Collector was that the land in survey No.183 originally belonged to Kallem Chandraiah, grandfather of the petitioner, that Chandraiah obtained a certificate under Section 38-E of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (Tenancy Act, for brevity), that after death of Chandraiah, the father of the petitioner and fourth respondent – Narsaiah, and the father of respondents 5 and 6 - Mallaiah were cultivating the land and that the petitioner and respondents are entitled to the land in equal shares. They also alleged that they were in actual possession of the land admeasuring Acs.6.00 and that father of the petitioner and three others

were shown to be in possession of Acs.5.55 cents. Learned counsel, therefore, contends that when there is dispute regarding title, Joint Collector ought to have directed the parties to go to civil Court for declaration of title. Secondly, he would urge that when there was interference by the respondents, the petitioner already filed a suit being O.S.No.31 of 1999 on the file of the Court of the Junior Civil Judge, Asifnagar, for injunction against respondents 4 to 6 and during the pendency, the revenue authorities could not have taken up any action under the provisions of the Act under A.P.Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity).

As noticed by the first respondent, on direction from the RDO, the MRO, Bellampally, conducted enquiry and recorded statements of village elders before submitting a report. As per the report of MRO, the petitioner misrepresented by creating false sale deeds before revenue authorities and got the land mutated in his name and that the petitioner played fraud on the authorities by filing such false documents. It was also revealed that the petitioner is only one of the shareholders in the property originally owned by Kallem Chandraiah. The Joint Collector again sent for the records and on verification found that in the revenue records from 1954-1959 (khasra pahani) and other pahanis, the name of Kallem Chandraiah was shown as a certificate holder under Section 38-E of Tenancy Act and that respondents 4 to 6 were in possession of the land. It was also noticed that while issuing the certificate in Form 13-B, MRO acted in haste, in that the Sub Registrar was addressed by the MRO in Form No.13-A for ascertaining stamp duty when notices in form Nos.11 and 12 were issued and that the statutory period between the date of filing of the application and the date of issue of certificate of validation was not observed. A reading of the Joint Collector's order would reveal that virtually there was no notice to respondents 4 to 6, who are claiming share in the property originally owned by Kallem Chandraiah. For this reason, there is ample justification on the part of the RDO as confirmed by the Joint Collector to remand the matter to MRO for *de novo* enquiry.

The submission of the learned counsel for the petitioner that pendency of the suit and genuine dispute as to title bars the jurisdiction of the authorities under the Act is misconceived. Admittedly, the petitioner filed the suit only for injunction and not for title. As per Rule 9(1)(c)(ii) of the Rules, the pendency of a suit for declaration of better title alone bars the jurisdiction of the recording authority and not a suit for injunction. Insofar as the other ground urged is concerned, now that the matter stands remanded to MRO, Bellampally. It is always open to the parties to raise all grounds before the MRO. Indeed, in fairness, it may be mentioned that the learned

counsel for the petitioner did not press the ground too far that title dispute bars the jurisdiction of the authorities.

This Court does not find any merit in the writ petition and the writ petition is accordingly dismissed. No costs.

(V.V.S.RAO,J)

27.06.2006
pln